IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 28TH JUNE 2007 / 7TH ASHADHA 1929

WP(C).No. 22327 of 2005(G)

PETITIONER: APPELLANT.

WILFRED SATHYARAJ, S/O.SATHYARAJ,
RESIDING AT THENOOR NILAYAM, POONAJAN CODE MURI,
KATTAKKADA, PERUMKULAM VILLAGE, NEDUMANGAD TALUK.

BY ADV. SRI.ABRAHAM MATHEW (VETTOOR)

RESPONDENTS:

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1. THE KERALA STATE ELECTRICITY BOARD,
VYDYUTHI BAHVAN, TRIVANDRUM, REPRESENTED BY ITS
SECRETARY.

2. THE ASSISTANT ENGINEER, KERALA STATE
ELECTRICITY BOARD, ELECTRICAL MAJOR SECTION,
KATTAKKADA, TRIVANDRUM DISTRICT.

3. THE EXECUTIVE ENGINEER,
ELECTRICAL DIVISION, NEDUMANGAD.

BY ADV. SRI.JOSE J.MATHEIKEL, SC, KSEB
SRI.C.K.KARUNAKARAN, SC FOR KSEB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 28/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY of the CERTIFICATE FOR ADDL. POWER ALLOCATION ISSUED BY THE 2ND RESPONDENT DATED 21/10/1986.

P2 : COPY OF the ILLEGAL BILL MADE TOWARDS ARREARS OF CURRENT CHARGES DATED 06/10/2001.

P3 : COPY of the JUDGMENT IN OP NO.34014 OF 2001 DATED 27/11/2001.

P4 : COPY of the APPEAL FILED BEFORE THE 3RD RESPONDENT DATED 27/12/2001.

P5 : COPY OF THE DEMAND NOTICE CUM DISCONNECTION NOTICE ISSUED TO CONSUMER NO.2705 DATED 17/07/2000.

P6 : COPY OF THE DEMAND NOTICE CUM DISCONNECTION NOTICE ISSUED OT THE CONSUMER NO.2705 DATED 10/12/2001.

P7 : COPY of the DEMAND NOTICE CUM DISCONNECTION NOTICE ISSUED TOT HE CONSUMER NO.2705 DATED 19/10/2002.

P8 : COPY OF THE DEMAND NOTICE CUM DISCONNECTION NOTICE ISSUED TO THE CONSUMER NO.2705 DATED 15/11/2002.

P9 : COPY OF THE REQUISIITON FOR CHANGE OF TARIFF MADE TOT HE 2ND RESPONDENT DATED 31/01/2003.

P10 : COPY OF THE DEMAND NOTICE CUM DISCONNECTION NOTICE DATED 15/05/2003.

P11 : COPY OF THE DEMAND NOTICE CUM DISCONNECTION NOTICE DATED 15/03/2003.

P12 : COPY of the DEMAND NOTICE CUM DISCONNECTION NOTICE DATED 15/04/2005.

P13 : COPY OF THE DEMAND FOR ARREARS OF CURRENT CHARGES MADE by the 2ND RESPONDENT DATED 19/04/2005.

P14 : OCPY OF THE REPRESENTATION MADE TO THE DISTRICT COLLECTOR WITH COPIES 2 OTHERS DATED 20/05/2005.

P15 : COPY OF THE REPRESENTATION MADE TO THE RESPONDENTS DATED 04/06/2005.

P16 : COPY OF THE DEMAND NOTICE CUM DISCONNECTION NOTICE ISSUED TO THE CONSUMER NO. 2705 DATED 17/06/2000.

P17 : COPY of the BILL DATED 16/09/2002.

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P17(a) : COPY OF THE BILLD ATED 15/12/2002.

P18 : COPY OF THE BILL ISSUED DURING THE YEAR 1992 DATED 14/09/1992.

P18(a) : COPY OF THE BILL ISSUED DATED 12/10/1992.

P18(b) : COPY OF THE BILL DATED 12/09/1994.

P18(c) : COPY OF THE BILL DATED 10/01/1995.

P18(d) : COPY OF THE BILL DATED 10/06/1996.

P18(e) : COPY OF THE BILL DATED 20/04/1998.

P18(f) : COPY OF THE BILL DATED 16/12/1998.

RESPONDENT'S EXHIBITS

R2(a) : COPY OF THE MAHAZAR DATED 25/10/1999.

R2(b) : COPY OF THE ORDER NO.GB1/O.P.34014/01.7/25/15.11.02.

// TRUE COPY //

PA TO JUDGE.

jg

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 22327 of 2005

Dated, this the 28th day of June, 2007

J U D G M E N T

Petitioner is challenging Ext.P2 electricity bill, confirmed in appeal vide Ext.R2(b) order, issued by the 2nd respondent. I heard learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the KSEB. It is seen that petitioner had three electricity connections one for domestic use and other for industrial purpose for running a workshop and the third for commercial purposes i.e. for running a service station. Until the service station tariff was changed to commercial in May 1995, petitioner was remitting bills. However, when the tariff changed for service station, petitioner discontinued the payment in 1995 and for three years petitioner continued the service station without payment of any electricity bills. Therefore, in 1998 supply to the service station was disconnected. However, when inspection was carried out, it was noticed that petitioner was tapping power from the industrial connection and was running the service station. Even though petitioner denied the allegation, it was found against by the

appellate authority. I do not find any ground to interfere with the order of the appellate authority because the meter recording at the time of inspection itself shows that petitioner was tapping power for the service station even after disconnection, which obviously means that the power was taken from the industrial connection that was available nearby. It is also noticed during inspection that petitioner was taking power for the house use also from the industrial connection. When arrear bill was raised, petitioner dodged payment by filing suit before the Munsiff Court, which was later dismissed. The bills raised, that are under dispute, are essentially for actual consumption. However, it is seen that entire bills are raised at commercial tariff which is not justified because petitioner was admittedly running workshop, which was his first business started by him, the tariff applicable to which was only LT IV.

2. I feel the order calls for modification because 1/3rd of the demand is attributable to penal interest. Moreover, it is reported that petitioner has closed business and the Board itself allowed petitioner to continue service station for three years without raising any bills or recovering any amount. In the circumstance, and since entire consumption was not under commercial tariff, I reduce the

amount payable under disputed bill to Rs. 30,000/-, which has already been paid by the petitioner. If petitioner is liable to pay any other amount under conditional orders, respondents are free to recover such amounts.

With the above observation, this WP(C) is closed.

(C.N.RAMACHANDRAN NAIR, JUDGE)

jg